

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JANELYS HERNANDEZ, *on behalf of herself
and all others similarly situated,*

Plaintiff,

-v.-

THERALOGIX, LLC,

Defendant.

23 Civ. 3538 (KPF)

ORDER

KATHERINE POLK FAILLA, District Judge:

On May 12, 2023, the Court issued a Notice of Initial Pretrial Conference, setting forth a conference date of July 28, 2023. (Dkt. #5). As a preliminary matter, the Court notes that Defendant has yet to file a notice of appearance in this action. The Court also notes that Plaintiff has failed to file an affidavit of service indicating that Defendant was ever served. Pursuant to Federal Rule of Civil Procedure 4(m), Plaintiff is required to serve Defendant within 90 days after the complaint is filed or risk the Court's *sua sponte* dismissal of the action without prejudice. As such, Plaintiff is ordered to serve Defendant on or before **August 3, 2023**, and to file an affidavit of service on or before **August 5, 2023**. To the extent Plaintiff has already served Defendant and merely neglected to file an affidavit indicating as such on the docket, Plaintiff is directed to file the affidavit on or before **July 28, 2023**, and move for default against Defendant on or before **August 21, 2023**.

The initial pretrial conference currently scheduled for July 28, 2023, is hereby ADJOURNED *sine die*.

SO ORDERED.

Dated: July 27, 2023
New York, New York

A handwritten signature in blue ink, reading "Katherine Polk Faila".

KATHERINE POLK FAILLA
United States District Judge